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September 7, 2017

**BY E.C.F.**

Honorable Vera M. Scanlon  
United States Magistrate Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Jeremias Julio v. Officer Theophile, et al.,  
17 Civ. 4347 (DLI) (VMS)

Your Honor:

I am an Assistant Corporation Counsel in the Office of Zachary W. Carter, Corporation Counsel of the City of New York, and the attorney assigned to the defense of the above-referenced matter. I write with the hope that the Court will, *sua sponte*, extend defendants Theophile and Figliozi's time to answer or otherwise respond to the complaint from September 12, 2017 until September 25, 2017. Plaintiff's counsel, Gabriel Harvis, Esq., consents to this extension. This is the second request for an enlargement of this deadline. It does not impact any other deadline in this case.

By way of background, plaintiff Jeremias Julio alleges, *inter alia*, that he was unlawfully arrested by members of the New York City Police Department ("NYPD") on or about September 17, 2016. Plaintiff further claims that he was pushed by the defendant Police Officers and subjected to tight handcuffing. As a result of this arrest, plaintiff alleges he was detained for approximately eighteen hours prior to his release. Plaintiff purports to name Officer Steven Theophile, Sgt. Figliozi, and Sgt. O'Hare as defendants in this action.<sup>1</sup> On August 8, 2017, the

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<sup>1</sup> Upon information and belief, and upon a review of the docket sheet in this matter, the additionally named individual defendant, Sgt. O'Hare, has not yet been served with process in this case.

Court, *sua sponte*, extended defendants time to answer or otherwise respond to the complaint to September 12, 2017.

This Office now hopes that the Court will, *sua sponte*, extend the time for defendants to answer or otherwise respond to the complaint from September 12, 2017 until September 25, 2017. This extension is necessary because this Office has yet to resolve representation with Sgt. Figliozi and Officer Theophile.<sup>2</sup> As the Court is aware, Section 50-k of the New York General Municipal Law requires that this Office conduct an inquiry into the facts of the case in order to determine whether we may represent Officer Theophile and Sgt. Figliozi. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)). To date, this Office has not yet received all the documentation necessary to resolve the representation issues in this case. An extension of time should provide sufficient time for this Office to review the necessary documents and determine whether it may represent the individual defendants in this matter.

Accordingly, this Office hopes that the Court will, *sua sponte*, extend defendants time to answer or otherwise respond to the complaint from September 12, 2017 until September 25, 2017.

Thank you for your consideration regarding the within request

Respectfully submitted,

/s/

Daniel G. Saavedra  
Assistant Corporation Counsel  
Special Federal Litigation Division

cc: Gabriel P. Harvis, Esq. (by ECF)  
Attorney for Plaintiff

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<sup>2</sup> This Office has not discussed service with Officer Theophile or Sgt. Figliozi; accordingly, this Office makes no representation herein as to the adequacy of service upon them.